

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH J. CARROLL,

Plaintiff,

-against-

Index No.: 07-cv-11577

CITY OF MOUNT VERNON,

**NOTICE OF MOTION**

ERNEST D. DAVIS, Individually and as Mayor  
of the City of Mount Vernon

CITY OF MOUNT VERNON DEPARTMENT  
OF FIRE,

and

NICHOLAS CICCHETTI, Individually and as  
Commissioner of Fire for the City of Mount Vernon

Defendants.

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**PLEASE TAKE NOTICE**, that upon the accompanying Affidavit of Howard M. Miller dated August 15, 2008 and the Memorandum of Law dated August 15, 2008, Defendants City of Mount Vernon, Ernest D. Davis, City of Mount Vernon Department of Fire, and Nicholas Cicchetti, will move this Court, before the Honorable Judge Cathy Seibel, at the United States Courthouse located at 300 Quarropas Street White Plains, New York 10601 at such time as to be determined by this Court for an Order pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure dismissing the Amended Complaint in its entirety.

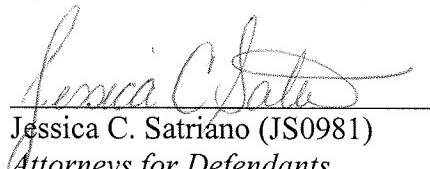
**PLEASE TAKE FURTHER NOTICE**, that pursuant to Civil Rule 6.1 of the Local Rules of the Southern and Eastern Districts of New York, papers in opposition to this motion must be served on Defendants' counsel within ten (10) business days after service of this Notice of Motion.

Dated: Garden City, New York  
August 15, 2008

Respectfully submitted,

BOND, SCHOENECK & KING, PLLC

By:



Jessica C. Satriano (JS0981)

*Attorneys for Defendants*

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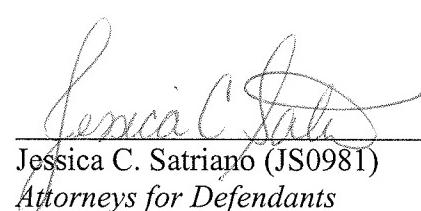
(516) 267-6300

jsatriano@bsk.com

CERTIFICATE OF SERVICE

I hereby certify that on August 15, 2008 the foregoing document was filed with the Clerk of the Court and served in accordance with the Federal Rules of Civil Procedure, and/or the Southern District's Local Rules, and/or the Southern District's Rules on Electronic Service upon the following parties and participants:

Andrew P. Fleming, Esq.  
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